

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM: Acting, Director, Office of
External Affairs
7D43 Hqs

EXTENSION

NO.

EA 82-0063/D

DATE

25X1

TO: (Officer designation, room number, and
building)

DATE

RECEIVED

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OFFICER'S
INITIALSCOMMENTS (Number each comment to show from whom
to whom. Draw a line across column after each comment.)

1.

Executive Director

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A/DCI

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Attached for your review are answers to questions for the record submitted by HPSCI following the February hearings on Wilson-Terpil. The responses were prepared by the IG's Wilson-Terpil team and coordinated with OGC.

I have attached a short transmittal note for your signature. Recommend you sign the transmittal and return the package to OEXA for transmittal to HPSCI. The draft legislative remedy, which the Committee requested, was sent to HPSCI on 1 April.

25X1

Attachments

SECRET

1. What is the charter, the job description of the CIA's Inspector General?

The Inspector General, on behalf of the Director, directs and coordinates the activities of the Inspection Staff and Audit Staff in conducting special investigations, inspections, and audits of Agency components and the staff elements of the Office of the Director, both at headquarters and in the field, and oversees the Agency-wide grievance handling system. CIA regulations [redacted] describing these duties are 25X1 attached. The grade of the Inspector General is equivalent to that of a Deputy Director (SIS-6). The Inspector General has access to any information within the Agency and the staff elements of the Office of the Director.

The Executive Order 12036 requirements were modified by Presidential Executive Order 12333 which was approved on 4 December 1981. Executive Order 12333 requires that senior members of the Intelligence Community:

"(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organization that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive;"

"(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board;" and

"(i) Insure that the Inspectors General and General Counsels have access to any information necessary to perform their duties assigned by this Order."

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2. What restrictions on ex-employees' employment -- if any -- do you believe are needed in the wake of Wilson/Terpil?

Current laws as applicable to government employees generally, restrict certain activities on the part of former government employees. For example, the conflict of interest laws restrict post-employment representational activities as they pertain to the former agency employee.

The concerns raised by the Wilson and Terpil case apply equally to personnel in the intelligence, defense and foreign policy communities. It may be appropriate to place certain limitations on, or to legislate reporting requirements concerning, post-government employment throughout the Federal government, but the development of an equitable text would not be easy.

Wilson and Terpil have been indicted for numerous violations of criminal law. It is doubtful whether any contractual or legislative ban on their activities would have been effective. In any event, legislation in this area should be balanced and attempt to deal with systemic problems.

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3. To what extent can CIA employment contracts be utilized to require ex-employees to register their dealings with foreign governments after leaving CIA? To limit such employment? Do you feel such restrictions would be fair?

We believe such a contractual provision (reasonable as to scope) would be lawful. However, we are not sure how effective such a contract would be in other than a moral control context, given the limitations on enforcement of such provisions by traditional breach of contract remedies. The type of activities the contract would address exceed the scope of contract enforcement actions. Legislation, naturally, would present a more formidable and effective means to deal with post-government employment restrictions.

As posed, the restrictions would be unfair to ex-employees of CIA. The restrictions focus only on CIA employees, neglecting the potential for former employees of other government agencies to work directly for foreign governments. This is pertinent since Wilson was an employee of the Navy after his employment with the Agency.

The second objection is that it is an across-the-board restriction that does not discriminate on the type of activity being undertaken. For example, many Agency employees have skills that are appealing to the U.S. business community, and to universities, foundations, etc. If their right to work in these sectors were abridged by the terms of their employment with CIA, our ability to recruit new employees and to retain current ones would be seriously constrained, to say nothing of its being fundamentally discriminatory.

4. What do you think of prohibiting and criminalizing all ex-Government employees, or those who once held security clearances, from employment with foreign governments determined by the President to be supporting terrorism?

Under current legislation, commercial relationships with certain foreign governments are proscribed: e.g., Trading with the Enemy Act, 50 U.S.C. App. ss.5 under which criminal penalties may be imposed. Similar legislation could be adopted with respect to employment relationships with countries designated by the President as hostile to United States interests. The prohibition on employment with those foreign government should apply to all U.S. citizens, not merely to former U.S. government employees, and be concerned with activities specifically defined as supporting international terrorism.

5. In restricting post-government employment, or requiring that it be registered with the Government, how do you treat the cases of ex-government employees who work for companies which contract to perform services for foreign governments?

We don't. However, if a company has a contract on which the former government employee could not work directly because of restrictions imposed by a government regulation, that employee would have to be quarantined from the contract and not have a role in its negotiation or execution.

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6. Do you see objections to a statute which criminalizes recruiting by anyone for purposes of international terrorism?

We would have no objection to making criminal activities such as recruitment by private individuals on behalf of a hostile foreign government or organization for support of international terrorism. We note, however, the difficulty encountered to date in defining "international terrorism."

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7. Were there in 1971, or have there been at any time thereafter, any CIA regulations, procedures, or policies concerning Agency and individual employee relations -- social or Agency related -- with ex-employees working for or with foreign governments?

The Agency's policy concerning such relationships is contained in the Employee Code of Conduct and the regulations referenced therein. This policy not only mandates arm's length dealings with former employees working for foreign governments but also sets forth standards and procedures which govern all contacts with ex-employees regardless of their current activities.

Two Headquarters Notices, one issued by Admiral Turner on 27 June 1977 and one by DCI Casey on 25 June 1981, reminded employees of the standards and policy which govern their contacts with former employees.

Copies of the three documents referred to above are attached for the Committee's review.

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